

## Adopt California Code of Regulations

### Title 4, Division 12. California Educational Facilities Authority (CEFA)

#### Chapter 3. Qualified Scholarship Funding Corporations

##### Section 9071. Purpose.

Before applying to the California Debt Limit Allocation Committee for allocation of a portion of the ~~s~~State ~~e~~Ceiling pursuant to Government Code ~~s~~Section 8869.85, an entity that is seeking to issue ~~q~~Qualified ~~s~~Scholarship ~~f~~Funding ~~b~~Bonds must first obtain approval from the California Educational Facilities Authority, unless such entity became a qualified scholarship funding corporation prior to January 1, 2006. The Authority may in its discretion determine not to grant approval to any entity regardless of whether the entity qualifies as an Eligible Candidate as defined in Section 9072(b). The Authority will consult and coordinate with the California Debt Limit Allocation Committee prior to making a final determination.

Note: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; Section 8869.85, Government Code.

##### Section 9072. Definitions

In addition to the definitions set forth in Section 9020, the following definitions shall ~~shall~~ will govern the construction of this chapter:

- (a) “~~Applicant~~ Candidate” means a ~~student loan entity corporation~~ seeking approval from the Authority to apply for an allocation of the State Ceiling for the purpose of ~~to issue~~ issuing ~~q~~Qualified ~~s~~Scholarship ~~f~~Funding ~~b~~Bonds.
- (b) (1) “Eligible Candidate” means a Candidate that ~~(1A)~~ is incorporated, authorized to operate, and operating as a nonprofit corporation under California law ~~(2B)~~ is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code (C) has its principal place of business or one of its significant branch offices in California, ~~(3D)~~ as required by its articles of incorporation and bylaws, is established and must be operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and must devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States, ~~(4E)~~ except as provided in subdivision (b)(2) of this section, is not owned or controlled by, or operated under common control with, a for-profit entity, and ~~(4F)~~ has served Proper Notice.
- (2) “Eligible Candidate means a Candidate that otherwise meets the definition in subdivision (b)(1) of this section and is owned or controlled by, or operated under common control with, a for-profit entity, and has demonstrated to the Authority, and the Authority in its discretion has agreed, that the Candidate will provide a public benefit that is not already being met by a Qualified Scholarship Funding Corporation,

such as a grant program for financially needy students or an outreach program encouraging high school students to attend college and obtain an undergraduate degree.

(c) “Proper Notice” means a written notice of intent to seek approval under these regulations addressed to the Executive Director of CEFA that is received between July 1 and August 31 of any calendar year, unless no qualified scholarship funding corporation eligible to receive a transfer of the State Ceiling exists, then such written notice of intent may be received on any date.”

(b ~~d~~) “Qualified Scholarship Funding Bond” is means a bond issued by a corporation in compliance with Section 150(d) of the Internal Revenue Code, including any amendments thereto or any successor provision thereof, that is: (1) a not for profit corporation established and operated exclusively for the purpose of acquiring student loans incurred under the Higher Education Act of 1965, and (2) organized at the request of a state or political subdivision of the state.

(e ~~e~~) “State Ceiling” means the amount specified by Section 146(d) of the Internal Revenue Code and as determined by the California Debt Limit Allocation Committee for each calendar year.

(d ~~f~~) “Student Loan” means a loan made, insured, or guaranteed under the federal Higher Education Act of 1965, as amended and as set forth in Sections 1070 through 1089 of Title 20 of the United States Code, or any successor provisions thereto.

Note: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; Section 8869.85, Government Code.

#### Section 9073. Factors to Be Considered by the Authority

(a) An Applicant must, at a minimum, meet the following criteria prior to applying for allocation of the state ceiling:

(1) The Applicant must be a not for profit established under California law and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965.

(2) The Applicant must conduct and be authorized to conduct business in California.

(3) The Applicant’s principle place of business or one of its branch offices must be located in California.

(4) As stated in the Applicant’s articles of incorporation and bylaws, the Applicant Eligible Candidate must be formed for the purpose of promoting access to post secondary education for California residents and must devote its income, including any surplus income, to the acquisition of additional student loans.

(a)(b) When determining whether to grant approval to an Eligible Candidate to an Applicant that has met the criteria in subdivision (a), the Authority shall will consider all of the Applicant's Eligible Candidate's attributes and qualifications including but not limited to:

(1) Whether the members of the Applicant's Eligible Candidate's board of directors have sufficient experience, credentials and qualifications in the student loan industry.

(2) Whether the Applicant's Eligible Candidate's chief executive officer and chief financial officer have sufficient experience, credentials and qualifications in the student loan industry.

(3) Whether the Applicant Eligible Candidate has a reasonable business and/or strategic plan.

(4) Whether the Applicant Eligible Candidate has a reasonable marketing and/or outreach plan.

(5) Whether the Applicant Eligible Candidate can demonstrate that it has or will have sufficient staff and a sustainable organizational structure in California to undertake the issuance of bonds and/or acquisition of student loans in California.

(6) Whether the Eligible Candidate has significant presence in California's student loan industry.

(6 7) Whether the Applicant-Eligible Candidate can demonstrate the ability to deliver high quality services to the students in California.

(7 8) If the Applicant Eligible Candidate is seeking bond financing for the purpose of originating student loans, whether the entity or its parent corporation has sufficient experience in originating student loans.

(8 9) If the Applicant Eligible Candidate is seeking bond financing for the purpose of purchasing student loans in the secondary market, whether the entity or its parent corporation has sufficient experience in purchasing student loans in the secondary market.

(9 10) Whether the Applicant Eligible Candidate or its parent corporation has experienced an increase in student loan volume and asset base (direct origination or purchased, as applicable) in the previous three years.

(10 11) Whether the Applicant Eligible Candidate or its parent corporation has a demonstrated track record of offering high-quality, competitive and comprehensive loan products.

(11 12) Whether the Applicant Eligible Candidate or any of its officers, employees or affiliates has been the subject of any administrative, civil or criminal enforcement action brought by a federal, state, or local governmental agency.

Note: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; Section 8869.85, Government Code.

Section 9074. Information to Be Submitted by the ~~Applicant~~ Candidate to the Authority

~~An Applicant~~ A Candidate seeking approval under this chapter must submit sufficient information to the Authority in order for the Authority to determine that the Candidate meets the threshold criteria to be considered an Eligible Candidate, and must also submit the following information to the Authority to assist the Authority in making a determination:

(a) Organizational Information.

(1) An overview of the ~~Applicant~~ Candidate, including ownership structure and all related entities.

(2) A description of the present student loan activity and past student loan experiences of the ~~Applicant~~ Candidate and, if applicable or its parent corporation.

(3) The ~~Applicant's~~ Candidate's articles of incorporation and bylaws.

(4) Audited financial statements for each of the last three fiscal years.

(5) A completed copy of a legal status questionnaire, which can be obtained by the Authority upon request.

(6) A resume for each board member and ~~each member of~~ all key personnel, including but not limited to the chief executive officer and the chief financial officer, which must include relevant work experience, academic qualifications, and proposed responsibilities.

(7) A description of partnerships with public or private organizations that would assist the entity in promoting access to post-secondary education for California residents.

**(8) A copy of the tax-exemption letter from the Internal Revenue Service and a copy of the tax-exemption letter or Letter of Good Standing from the California State Franchise Tax Board.**

**(9) Certificate of Status of Domestic Corporation from the Secretary of State.**

(b) Presence in California.

(1) A description of the ~~Applicant's~~ Candidate's current business activities or operations being conducted in California.

(2) A description of the ~~Applicant's~~ Candidate's business plan.

(3) The volume of student loans the ~~Applicant~~ [Candidate reasonably](#) anticipates making or purchasing as a result of receiving tax-exempt bond financing.

(4) The criteria, standards, terms and conditions anticipated for the programs and services to be provided by the ~~Applicant~~ [Candidate](#).

(5) A description of where and how the ~~organization~~ [Candidate](#) would originate, service and/or purchase student loans.

(c) Any additional information requested by Authority staff that is related to the criteria listed in Section 9073.

Note: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; Section 8869.85, Government Code.

#### [Section 9075. Public Notice](#)

Prior to September 30 of each calendar year, the Authority may publish a list of all Candidates that have served Proper Notice during the calendar year pursuant to this chapter. Such list will be available to the public upon request.

Note: Authority cited: Section 94140, Education Code. Reference: Section 94103, Education Code; Section 8869.85, Government Code.